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GOVERNMENT OF TRIPURA
LAW DEPARTMENT
SECRETARIAT : AGARTALA

No. F.11 (2)-Law/Lib/2018/9156 Dated, Agartala, the 17th September, 2019.

Subject :- Re-publication of Central Acts & Amendment Acts in the State Gazette.

1. The Aadhaar and Other Laws (Amendment) Act 2019
(Act No. 14 of 2019)

17/09/19
(Rahul Roy)
ALC & Under Secretary, Law,
Government of Tripura.

THE AADHAAR AND OTHER LAWS (AMENDMENT) ACT, 2019

AN

ACT

to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 *and further to amend the Indian Telegraph Act,* 1885 *and the Prevention of Money-laundering Act,* 2002.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Aadhaar and Other Laws (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions

of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

PART II

AMENDMENTS TO THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016

Amendment of Long title of Act 18 of 2016.

2. In the long title of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereafter in this Part referred to as the principal Act), after the words "the Consolidated Fund of India", the words "or the Consolidated Fund of the State" shall be inserted.

Amendment of section 2.

3. In section 2 of the Principal Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "Aadhaar number" means an identification number issued to an individual under sub-section (*3*) of section 3, and includes any alternative virtual identity generated under sub-section (*4*) of that section;';

(*ii*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Aadhaar ecosystem" includes enrolling agencies, Registrars, requesting entities, offline verification-seeking entities and any other entity or group of entities as may be specified by regulations;';

(*iii*) after clause (*b*), the following clauses shall be inserted, namely:—

'(*ba*) "Adjudicating Officer" means an Adjudicating Officer appointed under sub-section (*1*) of section 33B;

(*bb*) "Appellate Tribunal" means the Appellate Tribunal referred to in sub-section (*1*) of section 33C;';

(*iv*) after clause (*i*), the following clause shall be inserted, namely:—

'(*ia*) "child" means a person who has not completed eighteen years of age;';

(*v*) after clause (*p*), the following clauses shall be inserted, namely:—

'(*pa*) "offline verification" means the process of verifying the identity of the Aadhaar number holder without authentication, through such offline modes as may be specified by regulations;

(*pb*) "offline verification-seeking entity" means any entity desirous of undertaking offline verification of an Aadhaar number holder;'.

Amendment of section 3.

4. In section 3 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) The Aadhaar number issued to an individual under sub-section (*3*) shall be a twelve-digit identification number and any alternative virtual identity as an alternative to the actual Aadhaar number of an individual that shall be generated by the Authority in such manner as may be specified by regulations.".

Insertion of new section 3A.

5. After section 3 of the principal Act, the following section shall be inserted, namely:—

Aadhaar number of children.

"3A. (*1*) The enrolling agency shall, at the time of enrolment of a child, seek the consent of the parent or guardian of the child, and inform the parent or guardian, the details specified under sub-section (*2*) of section 3.

(*2*) A child who is an Aadhaar number holder may, within a period of six months of attaining the eighteen years of age, make an application to the Authority for cancellation of his Aadhaar number, in such manner as may be specified by regulations and the Authority shall cancel his Aadhaar number.

(*3*) Notwithstanding anything in section 7, a child shall not be denied any subsidy, benefit or service under that section in case of failure to establish his identity by undergoing authentication, or furnishing proof of possession of Aadhaar number, or in the case of a child to whom no Aadhaar number has been assigned, producing an application for enrolment.".

Amendment of section 4.

6. In section 4 of the principal Act, for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) Every Aadhaar number holder to establish his identity, may voluntarily use his Aadhaar number in physical or electronic form by way of authentication or offline verification, or in such other form as may be notified, in such manner as may be specified by regulations.

Explanation.—For the purposes of this section, voluntary use of the Aadhaar number by way of authentication means the use of such Aadhaar number only with the informed consent of the Aadhaar number holder.

(*4*) An entity may be allowed to perform authentication, if the Authority is satisfied that the requesting entity is—

(*a*) compliant with such standards of privacy and security as may be specified by regulations; and

(*b*) (*i*) permitted to offer authentication services under the provisions of any other law made by Parliament; or

(*ii*) seeking authentication for such purpose, as the Central Government in consultation with the Authority, and in the interest of State, may prescribe.

(*5*) The Authority may, by regulations, decide whether a requesting entity shall be permitted the use of the actual Aadhaar number during authentication or only an alternative virtual identity.

(*6*) Every requesting entity to whom an authentication request is made by an Aadhaar number holder under sub-section (*3*) shall inform to the Aadhaar number holder of alternate and viable means of identification and shall not deny any service to him for refusing to, or being unable to, undergo authentication.

(*7*) Notwithstanding anything contained in the foregoing provisions, mandatory authentication of an Aadhaar number holder for the provision of any service shall take place if such authentication is required by a law made by Parliament.".

Amendment of section 7.

7. In section 7 of the principal Act, after the words "the Consolidated Fund of India", the words "or the Consolidated Fund of State" shall be inserted.

Amendment of section 8.

8. In section 8 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*a*), after the words "consent of an individual", the words ", or in the case of a child obtain the consent of his parent or guardian" shall be inserted;

(*ii*) after clause (*b*), the following proviso shall be inserted, namely:—

"Provided that the requesting entity shall, in case of failure to authenticate due to illness, injury or infirmity owing to old age or otherwise or any technical or other reasons, provide such alternate and viable means of identification of the individual, as may be specified by regulations.";

(*b*) in sub-section (*3*), after the words "for authentication,", the words "or in the case of a child, his parent or guardian" shall be inserted.

Insertion of new section 8A.

9. After section 8 of the principal Act, the following section shall be inserted, namely:—

Offline verification of Aadhaar number.

"8A. (*1*) Every offline verification of an Aadhaar number holder shall be performed in accordance with the provisions of this section.

(*2*) Every offline verification-seeking entity shall,—

(*a*) before performing offline verification, obtain the consent of an individual, or in the case of a child, his parent or guardian, in such manner as may be specified by regulations; and

(*b*) ensure that the demographic information or any other information collected from the individual for offline verification is only used for the purpose of such verification.

(*3*) An offline verification-seeking entity shall inform the individual undergoing offline verification, or in the case of a child, his parent or guardian, the following details with respect to offline verification, in such manner as may be specified by regulations, namely:—

(*a*) the nature of information that may be shared upon offline verification;

(*b*) the uses to which the information received during offline verification may be put by the offline verification-seeking entity; and

(*c*) alternatives to submission of information requested for, if any.

(*4*) No offline verification-seeking entity shall—

(*a*) subject an Aadhaar number holder to authentication;

(*b*) collect, use, or store an Aadhaar number or biometric information of any individual for any purpose;

(*c*) take any action contrary to any obligation on it as may be specified by regulations.".

Substitution of new section for section 21.

10. For section 21 of the principal Act, the following section shall be substituted, namely:—

Officers and other employees of Authority.

"21. (*1*) The Authority shall appoint such officers and employees as may be required for the discharge of its functions under this Act.

(*2*) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees of the Authority shall be such as may be specified by regulations.".

Insertion of new section 23A.

11. After section 23 of the principal Act, the following section shall be inserted, namely:—

Power of Authority to issue directions.

"23A. (*1*) The Authority may for the discharge of its functions under this Act, or any rules or regulations made thereunder, by order, issue such directions from time to time to any entity in the Aadhaar ecosystem, as it may consider necessary.

(*2*) Every direction issued under sub-section (*1*) shall be complied with by the entity in the Aadhaar ecosystem to whom such direction is issued.".

Substitution of new section for section 25.

12. For section 25 of the principal Act, the following section shall be substituted, namely:—

Fund.

"25. (*1*) There shall be constituted a Fund to be called the Unique Identification Authority of India Fund and there shall be credited thereto—

(*a*) all grants, fees and charges received by the Authority under this Act; and

(*b*) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied for meeting—

(*a*) the salaries and allowances payable to the Chairperson and members and administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority; and

(*b*) the expenses on objects and for purposes authorised by this Act.".

Amendment of section 29.

13. In section 29 of the principal Act,—

(*a*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) No identity information available with a requesting entity or offline verification-seeking entity shall be—

(*a*) used for any purpose, other than the purposes informed in writing to the individual at the time of submitting any information for authentication or offline verification; or

(*b*) disclosed for any purpose, other than purposes informed in writing to the individual at the time of submitting any information for authentication or offline verification:

Provided that the purposes under clauses (*a*) and (*b*) shall be in clear and precise language understandable to the individual.";

(*b*) in sub-section (*4*), for the words "or core biometric information", the words ", demographic information or photograph", shall be substituted.

Amendment of section 33.

14. In section 33 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) for the words "District Judge", the words "Judge of a High Court" shall be substituted;

(*b*) in the proviso, after the words "hearing to the Authority", the words "and the concerned Aadhaar number holder" shall be inserted;

(*c*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the core biometric information shall not be disclosed under this sub-section.";

(*ii*) in sub-section (*2*), for the words "Joint Secretary", the word "Secretary" shall be substituted.

Insertion of new Chapter VIA

15. After Chapter VI of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER VIA

CIVIL PENALTIES

Penalty for failure to comply with provisions of this Act, rules, regulations and directions.

33A. (*1*) Where an entity in the Aadhaar ecosystem fails to comply with the provision of this Act, the rules or regulations made thereunder or directions issued by the Authority under section 23A, or fails to furnish any information, document, or return of report required by the Authority, such entity shall be liable to a civil penalty which may extend to one crore rupees for each contravention and in case of a continuing failure, with additional penalty which may extend to ten lakh rupees for every day during which the failure continues after the first contravention.

(*2*) The amount of any penalty imposed under this section, if not paid, may be recovered as if it were an arrear of land revenue.

Power to adjudicate.

33B. (*1*) For the purposes of adjudication under section 33A and imposing a penalty thereunder, the Authority shall appoint an officer of the Authority, who is not below the rank of a Joint Secretary to the Government of India and possessing such qualification and experience as may be prescribed, to be an Adjudicating Officer for holding an inquiry in such manner as may be prescribed.

(*2*) No inquiry under sub-section (*1*) shall be initiated except by a complaint made by the Authority.

(*3*) While holding an inquiry, the Adjudicating Officer shall—

(*a*) provide the entity in the Aadhaar ecosystem against whom complaint is made, an opportunity of being heard;

(*b*) have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the Adjudicating Officer, may be useful for or relevant to the subject matter of the inquiry.

(*4*) If the Adjudicating Officer, on such inquiry, is satisfied that the entity in the Aadhaar ecosystem has failed to comply with any provision of this Act or the rules or regulations made thereunder or directions issued by the Authority under section 23A, or has failed to furnish any information, document, or return of report required by the Authority, the Adjudicating Officer may, by order, impose such penalty under section 33A as he thinks fit.

Appeals to Appellate Tribunal.

33C. (*1*) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997, shall be Appellate Tribunal for the purposes of hearing appeals against the decision of the Adjudicating Officer under this Act. 24 of 1997.

(*2*) A person or entity in the Aadhaar ecosystem aggrieved by an order of the Adjudicating Officer under section 33B, may prefer an appeal to the Appellate Tribunal within a period of forty-five days from the date of receipt of the order appealed against, in such form and manner and accompanied with such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(*3*) On receipt of an appeal under sub-section (*2*), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(*4*) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the Adjudicating Officer.

(*5*) Any appeal filed under sub-section (*2*) shall be dealt with by the Appellate Tribunal as expeditiously as possible and every endeavour shall be made by it to dispose of the appeal within six months from the date on which it is presented to it.

(*6*) The Appellate Tribunal may, for the purpose of deciding an appeal before it, call for the records relevant to disposing of such appeal and make such orders as it thinks fit.

Procedure and powers of the Appellate Tribunal.

33D. The provisions of sections 14-I to 14K (both inclusive), 16 and 17 of the Telecom Regulatory Authority of India Act, 1997 shall, *mutatis mutandis*, apply to the Appellate Tribunal in the discharge of its functions under this Act, as they apply to it in the discharge of its functions under that Act. 24 of 1997.

5 of 1908.

Appeal to Supreme Court of India.

33E. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on any substantial question of law arising out of such order.

(*2*) No appeal shall lie against any decision or order made by the Appellate Tribunal which the parties have consented to.

(*3*) Every appeal under this section shall be preferred within a period of forty-five days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

Civil court not to have jurisdiction.

33F. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer appointed under this Act or the Appellate Tribunal is empowered, by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.".

Amendment of section 38.

16. In section 38 of the principal Act, for the words "three years", the words "ten years" shall be substituted.

Amendment of section 39.

17. In section 39 of the principal Act, for the words "three years", the words "ten years" shall be substituted.

Substitution of new section for section 40.

18. For section 40 of the principal Act, the following section shall be substituted, namely:—

Penalty for unauthorised use by requesting entity or offline verification-seeking entity.

"40. Whoever,—

(*a*) being a requesting entity, uses the identity information of an individual in contravention of sub-section (*2*) of section 8; or

(*b*) being an offline verification-seeking entity, uses the identity information of an individual in contravention of sub-section (*2*) of section 8A,

shall be punishable with imprisonment which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.".

Amendment of section 42.

19. In section 42 of the principal Act, for the words "one year", the words "three years" shall be substituted.

Amendment of section 47.

20. In section 47 of the principal Act, in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that the court may, on a complaint made by an Aadhaar number holder or individual take cognizance of any offence punishable under section 34 or 35 or 36 or 37 or 40 or section 41.".

Insertion of new section 50A.

21. After section 50 of the principal Act, the following section shall be inserted, namely:—

43 of 1961.

Exemption from tax on income.

"50A. Notwithstanding anything contained in the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on income, profits or gains, the Authority shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains.".

Amendment of section 51.

22. In section 51 of the principal Act, for the words "Member, officer", the words "Member or officer" shall be substituted.

Amendment of section 53.

23. In section 53 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the purpose for which the requesting entity may be allowed by the Authority to perform authentication under sub-clause (*ii*) of clause (*b*) of sub-section (*4*) of section 4;";

(*ii*) after clause (*g*), the following clauses shall be inserted, namely:—

"(*ga*) the qualification and experience of, and the manner of appointment of, the Adjudicating Officer under sub-section (*1*) of section 33B;

(*gb*) the form, manner, and fee for an appeal to be filed under sub-section (*2*) of section 33C;".

Amendment of section 54.

24. In section 54 of the principal Act, in sub-section (*2*),—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the entities or group of entities in the Aadhaar ecosystem under clause (*aa*), the biometric information under clause (*g*) and the demographic information under clause (*k*), the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (*m*), and the modes of offline verification of Aadhaar number holder under clause (*pa*) of section 2;";

(*ii*) after clause (*b*), the following clauses shall be inserted, namely:—

"(*ba*) the manner of generating an alternative virtual identity under sub-section (*4*) of section 3;

(*bb*) the manner in which cancellation of an Aadhaar number may be carried out under sub-section (*2*) of section 3A;";

(*iii*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*ca*) standards of privacy and security to be complied with by the requesting entities under sub-section (*4*) of section 4;

(*cb*) the classification of requesting entities under sub-section (*5*) of section 4;";

(*iv*) after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) the alternate and viable means of identification of individual under the proviso to clause (*b*) of sub-section (*2*) of section 8;

(*fb*) the manner of obtaining consent under clause (*a*) of sub-section (*2*), the manner of providing information to the individual undergoing offline verification under sub-section (*3*), and the obligations of offline verification-seeking entities under clause (*c*) of sub-section (*4*) of section 8A;".

Omission of section 57.

25. Section 57 of the principal Act shall be omitted.

PART III

AMENDMENT TO THE INDIAN TELEGRAPH ACT, 1885

Amendment of section 4 of Act 13 of 1885.

26. In section 4 of the Indian Telegraph Act, 1885, after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*3*) Any person who is granted a license under the first proviso to sub-section (*1*) to establish, maintain or work a telegraph within any part of India, shall identify any person to whom it provides its services by—

(*a*) authentication under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or

18 of 2016.

(*b*) offline verification under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or

18 of 2016.

(*c*) use of passport issued under section 4 of the Passports Act, 1967; or

15 of 1967.

(*d*) use of any other officially valid document or modes of identification as may be notified by the Central Government in this behalf.

(*4*) If any person who is granted a license under the first proviso to sub-section (*1*) to establish, maintain or work a telegraph within any part of India is using authentication under clause (*a*) of sub-section (*3*) to identify any person to whom it provides its services, it shall make the other modes of identification under clauses (*b*) to (*d*) of sub-section (*3*) also available to such person.

(*5*) The use of modes of identification under sub-section (*3*) shall be a voluntary choice of the person who is sought to be identified and no person shall be denied any service for not having an Aadhaar number.

(*6*) If, for identification of a person, authentication under clause (*a*) of sub-section (*3*) is used, neither his core biometric information nor the Aadhaar number of the person shall be stored.

(*7*) Nothing contained in sub-sections (*3*), (*4*) and (*5*) shall prevent the Central Government from specifying further safeguards and conditions for compliance by any person who is granted a license under the first proviso to sub-section (*1*) in respect of identification of person to whom it provides its services.

Explanation.—The expressions "Aadhaar number" and "core biometric information" shall have the same meanings as are respectively assigned to them in clauses (*a*) and (*j*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.'.

18 of 2016.

PART IV

AMENDMENTS TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

15 of 2002.

27. In Chapter IV of the Prevention of Money-laundering Act, 2002 (hereafter in this Part, referred to as the principal Act), before section 12, the following section shall be inserted, namely:—

Insertion of new section 11A.

'11A. (*1*) Every reporting entity shall verify the identity of its clients and the beneficial owner, by—

Verification of identity by reporting entity.

(*a*) authentication under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 if the reporting entity is a banking company; or

18 of 2016.

(*b*) offline verification under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or

18 of 2016.

(*c*) use of passport issued under section 4 of the Passports Act, 1967; or

15 of 1967

(*d*) use of any other officially valid document or modes of identification as may be notified by the Central Government in this behalf:

Provided that the Central Government may, if satisfied that a reporting entity other than banking company, complies with such standards of privacy and security under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, and it is necessary and expedient to do so, by notification, permit such entity to perform authentication under clause (*a*):

18 of 2016.

Provided further that no notification under the first proviso shall be issued without consultation with the Unique Identification Authority of India established under sub-section (*1*) of section 11 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and the appropriate regulator. 18 of 2016.

(*2*) If any reporting entity performs authentication under clause (*a*) of sub-section (*1*), to verify the identity of its client or the beneficial owner it shall make the other modes of identification under clauses (*b*), (*c*) and (*d*) of sub-section (*1*) also available to such client or the beneficial owner.

(*3*) The use of modes of identification under sub-section (*1*) shall be a voluntary choice of every client or beneficial owner who is sought to be identified and no client or beneficial owner shall be denied services for not having an Aadhaar number.

(*4*) If, for identification of a client or beneficial owner, authentication or offline verification under clause (*a*) or clause (*b*) of sub-section (*1*) is used, neither his core biometric information nor his Aadhaar number shall be stored.

(*5*) Nothing in this section shall prevent the Central Government from notifying additional safeguards on any reporting entity in respect of verification of the identity of its client or beneficial owner.

Explanation.—The expressions "Aadhaar number" and "core biometric information" shall have the same meanings as are respectively assigned to them in clauses (*a*) and (*j*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.'. 18 of 2016.

Amendment of section 12.

28. In section 12 of the principal Act, in sub-section (*1*), clauses (*c*) and (*d*) shall be omitted.

Amendment of section 73.

29. In section 73 of the principal Act, in sub-section (*2*), clauses (*j*) and (*jj*) shall be omitted.

Repeal and savings.

30. (*1*) The Aadhaar and Other Laws (Amendment) Ordinance, 2019 is hereby repealed. Ord. 9 of 2019.

(*2*) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.